



SACHI A. HAMAI
Interim Chief Executive Officer

County of Los Angeles
CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

"To Enrich Lives Through Effective And Caring Service"

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June 23, 2015

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**IMPLEMENTATION OF AB1522 –
HEALTHY WORKPLACES, HEALTHY FAMILIES ACT OF 2014
ALL SUPERVISORIAL DISTRICTS
(3 VOTES)**

SUBJECT

This letter and accompanying ordinance will update the method in which MegaFlex employees accrue non-elective leave hours, and Temporary and Recurrent employees accrue sick leave to comply with the Healthy Workplaces, Healthy Families Act of 2014, also known as AB1522. The current accrual process and timing of when the accrued hours are made available for these employees does not comply with the statute.

IT IS RECOMMENDED THAT THE BOARD:

Approve the accompanying ordinance amending Title 5, Personnel, and Title 6, Salaries of the County Code, to change the accrual method of non-elective leave hours to be available for usage on a per pay-period basis, and provide AB1522, sick personal leave, for certain temporary and recurrent employees, effective July 1, 2015, and instruct the Auditor-Controller to make the system changes necessary to implement these recommendations.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

BACKGROUND

In September 2014, Governor Brown approved the Healthy Workplaces, Healthy Families Act of 2014 (or AB1522) to ensure that workers in California receive paid sick leave to care for their own

health, or the health of their family members. Effective July 1, 2015, California employers are required to provide all employees with sick days at an accrual rate of no less than one hour sick leave for every thirty hours worked to all employees. Additionally, employees must be permitted to use the accrued sick time no later than the 90th day of employment, and may carry over the accrued sick days to the following year, up to a maximum accrual cap of 48 hours. Employers may fulfill the AB1522 sick day requirement if they have a paid time off (PTO) policy that satisfies the same accrual, carry over, and usage requirements.

Under AB1522, an employee who, on or after July 1, 2015, works 30 days or more within a year from the commencement of employment, is entitled to receive paid sick leave at the aforementioned accrual rates. This statute applies to part-time, temporary, and full-time employees. According to section 245.5 of the California Labor Code, the definition of employee excludes:

“An employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of employees, and expressly provides for paid sick days, or a paid leave, or paid time off policy that permits the use of sick days for those employees; final and binding arbitration of disputes concerning the application of its paid sick day provisions, premium wage rates for all overtime hours worked, and regular hourly rate of pay of not less than 30 percent more than the state minimum wage rate.” It also excludes: “A provider of in-home supportive services.”

AFFECTED EMPLOYEES

The employees in the County, whose sick leave or PTO benefits are subject to change under the standards of AB1522, include all non-represented employees in the MegaFlex plan; part-time and temporary employees who currently earn special paid leave; and part-time and temporary employees who do not have any provisions for sick leave.

All represented employees, including those who earn less than 30 percent more than the state minimum wage, accrue sick leave every pay period, and at an accrual rate that exceeds the requirements of AB1522. The provisions for usage and carryover of such hour also comply with AB1522. All represented employees are thus in compliance with this legislation.

Although employees under the Flex plan are subject to AB1522 regulations, they accrue sick leave at an accrual rate that exceeds the legislation requirements, and have provisions for usage and carryover that satisfy AB1522. Thus, Flex employees are also unaffected by AB1522.

MegaFlex Employees

Participants under the MegaFlex plan accrue paid time off in the form of non-elective leave hours. The current policy for non-elective leave complies with and exceeds the accrual and carry over requirements of AB1522. However, the timing of when non-elective leave hours are made available to newly hired MegaFlex employees is not compliant with AB1522.

Current Accrual Method for Non-Elective Leave

MegaFlex participants earn 4 hours of non-elective leave every pay period to a maximum of 80 hours per year. However, the hours are not made available to the employee until January 1 of the following year.

Newly hired MegaFlex employees are credited with a prorated number of non-elective leave hours on their one-year anniversary, based on active service from the day they are hired through December 31. For example, under the current policy, a new hire MegaFlex employee starts with the County on September 1, 2015, and regularly works through the end of the year. After one year, on September 1, 2016, the employee will receive 32 hours of non-elective leave based on his/her service from September 1, 2015, through December 31, 2015.

New Accrual Method for MegaFlex Non-Elective Leave

As of July 1, 2015, and prospectively, to comply with AB1522, all MegaFlex employees will accrue 4 hours of non-elective leave (that will be available for use) each pay period. The maximum accrual/allocation of non-elective leave will remain at 80 hours each calendar year. All hours earned from January 1, 2015, through June 30, 2015, will be made available for the employees' use on July 1, 2015.

Example: An employee who consistently works from January 2015, through June 2015, will be accredited 48 hours of non-elective leave on July 1, 2015. Beginning July 1 through the remainder of the year, the employee will accrue 4 hours of non-elective leave each pay period until 80 hours are reached for the calendar year. The following year in January 2016, the employee will again begin to accrue 4 hours of non-elective leave every pay period until 80 hours are reached.

Temporary and Recurrent Employees

The temporary and recurrent employees who currently earn Special Paid Leave, or who do not have any provisions for any form of sick leave, will begin to accrue AB1522 Sick Personal Leave as of July 1, 2015, up to a maximum cap of 48 hours. The terms and provisions of AB1522 Sick Personal Leave for temporary and recurrent employees have been negotiated and agreed upon within the fringe MOUs by both labor parties (SEIU, Local 721, and the Coalition of County Unions [CCU]) and management.

Current Accrual Method of Special Paid Leave

Certain temporary and recurrent employees under item subs F and H earn a form of paid time off called Special Paid Leave. The accrual rate and accrual process for Special Paid Leave do not meet the standards of AB1522. Employees may earn up to a maximum of 3 days of Special Paid Leave if they work 140 days or more in a calendar year. Also, similar to the current non-elective leave accrual method, Special Paid Leave is accrued or allocated the following year based on the number of days worked in the previous year. Thus, if an employee begins employment with the County in June, he or she will not have any Special Paid Leave available until the following year in January, which is not compliant with the AB1522 provision that sick leave must be made available within 90 days from the commencement of employment.

AB1522 Sick Personal

On June 30, 2015, temporary and recurrent employees will cease accruing Special Paid Leave, at which point they will be accredited with special paid leave days based on the number of days worked from January through June 2015. On July 1, 2015, both temporary and recurrent employees, as well as employees who did not previously accrue a form of sick time, will begin to accrue AB1522 Sick

Personal at an accrual rate of 1 hour for every 30 hours worked. AB1522 Sick Personal will be made available to the employee on a per pay period basis to be in compliance with the statute. Employees will be allowed to use up to three AB1522 Sick Personal days per calendar year.

The County has met with both SEIU Local 721 and the CCU regarding the implementation of Sick Personal for Temporary and Recurrent Employees, and to negotiate the terms and provisions. In February 2015, both unions initially agreed to the usage of 3 personal sick days per year, and the maximum accrual of 3 days per year.

As further clarification on AB1522 unfolded, in March 2015, the County's outside legal counsel advised that under the provisions of AB1522, the statute appears to permit an employer to satisfy the requirements by allowing an employee to earn up to 6 total sick days, and may limit the usage to 3 sick days per calendar year.

Since then, SEIU Local 721 has tentatively agreed to the usage of 3 sick personal days per year, and the maximum accrual of 6 total days. The CCU has tentatively agreed to the usage of 3 sick personal days per year, but continues to negotiate the terms and has not agreed to the maximum of 6 total days.

Under the provisions of law, and the requirement to implement such changes by July 1, 2015, the County plans to implement the usage of 3 sick personal days per year, and a maximum of 6 total days for temporary and recurrent employees to comply with AB1522, and will continue to negotiate with the CCU.

Implementation of Strategic Plan Goals

The recommended actions are consistent with the principles of the Countywide Strategic Plan by promoting the well-being of County employees and their families by offering comprehensive employee benefits.

FISCAL IMPACT/FINANCING

Changing the accrual method for MegaFlex employees will have an insignificant fiscal impact to the County of Los Angeles. The only new financial impact would be if a new hire MegaFlex employee were to separate from County service within the first year of employment. Under AB1522, the employee would be paid for the accrued non-elective leave hours at termination, as opposed to the current policy where the employee would not be eligible to be paid for any hours in the first year of employment. Research of the past 3 years of payroll data indicates a total of 4 MegaFlex employees who left County service within a year of commencing employment.

AB1522 Sick Personal accruals for employees who never had any form of sick leave will cost approximately \$550,000 per year.

Converting temporary and recurrent employees from Special Paid Leave to AB1522 will be cost neutral.

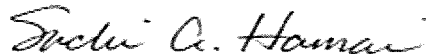
FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The accompanying ordinance implementing amendments to Title 5, Personnel and Title 6, Salaries, of the County Code has been approved as to form by County Counsel.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Your approval of these recommendations will bring the County into compliance with AB1522 by providing new hire employees with a form of sick leave within 90 days of hire.

Respectfully submitted,



SACHI A. HAMAI
Interim Chief Executive Officer

SAH:JJ:MTK
SM:DC:rld

Enclosures

- c: Executive Office, Board of Supervisors
County Counsel
Auditor Controller
Human Resources
All Department Heads
Coalition of County Unions
SEIU, Local 721

ANALYSIS

This ordinance amends Title 5 - Personnel and Title 6 - Salaries of the Los Angeles County Code by amending Sections 5.27.330, 5.28.330, 6.12.060, and adding Section 6.12.070 to comply with the Healthy Workplaces, Healthy Families Act of 2014 (AB1522). The accrual methods of Nonelective leave hours are amended for MegaFlex participants. Sick Personal Leave is provided for certain temporary and recurrent employees effective July 1, 2015.

MARY C. WICKHAM
Interim County Counsel

By: 

RICHARD D. BLOOM
Principal Deputy County Counsel
Labor and Employment Division

RDB:rlld

Requested: 6/3/15
Revised: 6/3/15
6/4/15
6/5/15
6/8/15
6/11/15
6/12/15
6/17/15

ORDINANCE NO. _____

An ordinance amending Title 5 - Personnel and Title 6 - Salaries of the Los Angeles County Code, relating to Nonelective Annual Leave and Sick Personal Leave for Temporary and Recurrent Employees and Sick Leave Special Provisions.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 5.27.330 is hereby amended to read as follows:

5.27.330 Nonelective Annual Leave.

A. Annual Allowance. On January 1st of each Plan Year, each Participant who has completed at least one year of continuous service in the preceding calendar year shall be entitled to a maximum of 10 days of paid Nonelective Annual Leave. Such entitlement shall be based on the Participant's active service in the preceding calendar year as provided in the following table:

Nonelective Annual Leave	
Number of Days of Annual Leave	Number of Working Days of Nonelective Active Service as a Participant
1	19
2	55
3	91
4	127
5	163

6	199
7	235
8	271
9	307
10	343

B. Effective with the pay period ending April 15, 2012, and upon notification to the board of supervisors by the chief executive officer that the human resources management system implementing this provision is fully operational, each Participant shall accrue Non-elective Annual Leave based on the Participant's active service at the rate of four (4) hours per pay period up to an annual maximum of 10 days of paid Non-elective Annual Leave available for use January 1st of each subsequent Plan Year. Any unpaid hours of active service in the pay period will cause a proportionate reduction in the Non-elective Annual Leave entitlement for that pay period.

C. Accrual of Unused Time. Except as provided in Section 6.24.040, Non-elective Annual Leave may be accrued to a maximum of 60 days, provided, however, that the CEO may authorize a higher than 60-day limit in any or all County Departments. Non-elective Annual Leave in excess of the 60-day limit, or such higher limit as the CEO may authorize, shall be paid at the Participant's workday rate of pay in effect at the point such excess accrual occurs.

D. Effective with the pay period ending July 15, 2015, each Participant shall accrue Nonelective Annual Leave based on the Participant's active service at the rate of four (4) hours per pay period up to an annual maximum of 10 days of paid Nonelective

Annual Leave available for use each pay period. Any unpaid hours of active service in the pay period will cause a proportionate reduction in the Nonelective Annual Leave entitlement for that pay period. The Nonelective hours earned from January 1, 2015, through June 30, 2015, will be made available for use for each Participant on July 1, 2015.

SECTION 2. Section 5.28.330 is hereby amended to read as follows:

5.28.330 Nonelective Annual Leave.

A. Annual Allowance. On January 1st of each Plan Year, each Participant who has completed at least one year of continuous service in the preceding calendar year shall be entitled to a maximum of 10 days of paid Nonelective Annual Leave. Such entitlement shall be based on the Participant's active service in the preceding calendar year as provided in the following table:

Nonelective Annual Leave	
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D. Effective with the pay period ending July 15, 2015, each Participant shall accrue Nonelective Annual Leave based on the Participant's active service at the rate of four (4) hours per pay period up to an annual maximum of 10 days of paid Nonelective

Annual Leave available for use *each pay period*. Any unpaid hours of active service in the pay period will cause a proportionate reduction in the Nonelective Annual Leave entitlement for that pay period. The Nonelective hours earned from January 1, 2015, through June 30, 2015, will be made available for use for each Participant on July 1, 2015.

SECTION 3. Section 6.12.060 is hereby amended to read as follows:

6.12.060 Special paid leave for certain temporary and recurrent employees.

A. Eligibility. Employees holding temporary or recurrent positions during part or all of calendar years 2003, 2004, 2005 and/or 2006 who are employed in classifications approved by the board shall be eligible for paid leave pursuant to the provisions of this section. For purposes of this section, a "temporary or recurrent position" is any position designated as an hourly as-needed item ("F" item) or an hourly recurrent item ("H" item) pursuant to Section 6.28.020.

B. Earning and Accrual of Paid Leave. An eligible employee shall earn paid leave to a maximum of 24 hours per calendar year based on the total number of days worked during the year of eligibility, as shown below. For this purpose, at least one hour of work per day shall constitute one day of work; provided, however, that no employee shall receive credit for days worked during any period when the employee was not exclusively employed in an eligible temporary position or any period which does not fall within calendar years 2003, 2004, 2005 and/or 2006.

Minimum Number of Days Worked	Amount of Paid Leave
60 days	8 hours
100 days	16 hours
140 days	24 hours

Paid leave as shown above shall be credited to the employee on January 1st following the year in which it is earned.

C. Use of Leave. Paid leave, in increments of eight (8) hours only, may be taken off, subject to prior approval of the appointing authority, or paid off at the employee's request during the calendar year in which it was credited to the employee, and shall not be carried over to any subsequent year.

D. Pay for Unused Leave. Unused credited leave shall be paid off under any one or more of the following conditions:

1. At the employee's request;
2. At the end of the calendar year in which it was credited to the employee;
3. At the employee's termination from county service.

Pay for unused leave shall be at the employee's workday rate in effect at the time of payment.

E. 1. This section shall not apply to anyone employed on any of the following items:

Item No.	Title
2923	Ocean Lifeguard
2924	Ocean Lifeguard Specialist
2953	Lake Lifeguard
2954	Senior Lake Lifeguard

2. Additionally, this section shall not apply to anyone reinstated pursuant to Civil Service Rule 17.01B.

F. Termination of Special Paid Leave. Special Paid Leave will cease as of June 30, 2015. Employees may be paid for accrued leave days in July 2015, or be paid at the end of the calendar year 2015.

SECTION 4. Section 6.12.070 is hereby added to read as follows:

6.12.070 Sick Personal for certain temporary and recurrent employees.

A. Sick Personal Leave (Payable)

1. Eligibility. Employees holding temporary or recurrent positions who are employed in classifications approved by the Board shall be eligible for Sick Personal Leave (Payable) pursuant to the provisions of this section. For purposes of this section, a "temporary or recurrent position" is any position designated as an hourly as-needed item ("F" item) or an hourly recurrent item ("H" item) pursuant to Section 6.28.020.

2. Earning and Accrual of Sick Personal Leave. An eligible employee shall earn Sick Personal Leave (Payable) to a maximum of 48 hours based on the accrual

rate of 1 hour of Sick Personal Leave for every 30 hours worked. Sick Personal Leave (Payable) shall be credited to the employee on a per pay period basis. Sick Personal Leave (Payable) is defined as payable upon termination of employment and hours may be paid in lieu of carrying over such hours to the subsequent year.

3. Use of Sick Personal Leave (Payable). Twenty-four hours of accrued Sick Personal Leave (Payable) may be taken off per calendar year, subject to prior approval from Management during the calendar year in which it was credited to the employee or thereafter for personal reasons pursuant to County Code Section 6.20.030 A(2). Sick Personal Leave (Payable) may also be taken for the purpose of attending to the employee's own health care and health care of family members as defined in Section 6.20.080, Bereavement Leave in the County Code, as well as what is defined in California Labor Code Section 245.5 (which includes adopted or foster children, stepchildren, legal wards or children to whom the employee stands in loco parentis, a biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child). Departmental requirements for prior approval will be applied only to the extent practicable.

4. Pay for Unused Sick Personal (Payable). An employee may, at his/her option, be paid for up to 3 Sick Personal Leave (Payable) days (24 hours), in lieu of carrying over such days, if the employee uses no Sick Personal Leave (Payable) for any reason. Sick Personal Leave (Payable) shall be paid at the employee's workday rate of pay in effect at the time of payment. The remaining balance of days or the full balance of days may be carried over to the following year.

B. Sick Personal Leave (Non-Payable)

1. Eligibility. Any employee who does not earn either sick leave, nonelective leave, or special paid leave, which includes an employee who is employed exclusively on a per clinic, consultation or visit ("G" item) or per session ("J" item), or part-time as defined by 1/5 time ("P" item), 1/4 time ("Q" item), 5/16 time ("R" item), 1/3 time ("S" item), 2/5 time ("T" item) basis, or rehired retiree employee, or any employee who has previously not accrued any form of sick leave benefits such as Relief Nurses, (Item #5261) shall be eligible for Sick Personal Leave (Non-Payable).

2. Earning and Accrual of Sick Personal Leave. An eligible employee shall earn Sick Personal Leave (Non-Payable) to a maximum of 48 hours based on the accrual rate of 1 hour of Sick Personal Leave for every 30 hours worked. Sick Personal Leave (Non-Payable) shall be credited to the employee on a per pay period basis. Sick Personal Leave (Non-Payable) may be carried over to any subsequent year. Sick Personal Leave (Non-Payable) is defined as not payable upon termination of employment and hours may not be paid in lieu of carrying over such hours to the subsequent year.

3. Use of Sick Personal Leave (Non-Payable). Twenty-four hours of accrued Sick Personal leave (Non-Payable) may be taken off per calendar year, subject to prior approval of Management during the calendar year in which it was credited to the employee or thereafter for personal reasons pursuant to County Code Section 6.20.030 A(2). Sick Personal Leave (Non-Payable) may also be taken for the purpose of attending to the employee's own health care and health care of family members as defined in County Code Section 6.20.080, Bereavement Leave in the County Code, as

well as what is defined in California Labor Code Section 245.5 (which includes adopted or foster children, stepchildren, legal wards or children to whom the employee stands in loco parentis, or a biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child). Departmental requirements for prior approval will be applied only to the extent practicable.

SECTION 5. Pursuant to Government Code 25123(f), this Ordinance shall take effect on July 1, 2015.